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6 Attorney for Trustee

7 **IN THE UNITED STATES BANKRUPTCY COURT**

8 **FOR THE DISTRICT OF ARIZONA**

9 In re: ) In Chapter 7 Proceedings  
10 SUSAN MARIA CABRAL; ) Case No. 2:09-BK-23136-SSC  
11 Debtor. )  
\_\_\_\_\_ )

12 **OBJECTION TO AMENDED EXEMPTIONS**

13 The trustee objects to the amended exemptions claimed by the  
14 debtor at Admin. Docket No. 18. The trustee's objection is more fully  
15 set forth in and is supported by the following Memorandum Of Points And  
16 Authorities.

17 DATED December 18, 2009.

18 **TERRY A. DAKE, LTD.**

19 By /s/ TD009656  
20 Terry A. Dake  
21 11811 North Tatum Boulevard  
Suite 3031  
22 Phoenix, Arizona 85028-1621  
Attorney for Trustee

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 1. The debtor has changed her exemptions from California  
25 state exemptions to Arizona state exemptions. However, as Item 15 of  
26 the debtor's Statement Of Financial Affairs reflects, the debtor lived  
27 in California until March of 2009, and this case was filed on September  
28

1 17, 2009. Thus, the debtor cannot use the Arizona exemptions pursuant  
2 to 11 U.S.C. §522(b)(3)(A).

3 2. The debtor claims a \$10,000.00 exemption in a motor  
4 vehicle. The trustee is informed that the debtor claims the increased  
5 exemption on the basis of disability. However, the debtor has not  
6 provided proof that she suffers any type of physical disability that  
7 would entitle her to claim the enhanced exemption. While she apparently  
8 qualifies for Social Security disability, that does not mean that she is  
9 entitled to the "physically disabled" exemption provided under A.R.S.  
10 §33-1125(8).

11 3. The debtor claims "costume jewelry" exempt as "engagement  
12 and wedding rings". Unless the debtor can demonstrate that her costume  
13 jewelry was for her wedding or engagement, the asserted exemption cannot  
14 be allowed.

15 4. The debtor claims an exemption of \$150.00 in three bank  
16 accounts. The statute allows \$150.00 for "a single account in any one  
17 financial institution". A.R.S. §33-1126(A)(9). The debtor can only  
18 exempt up to \$150.00 in one bank account. The others are not exempt.

19 5. The debtor has failed to turn over estate property in the  
20 amount of \$6,000.00 (the rent for the California property she owns for  
21 Sept. 15 to Oct. 14 and Oct. 15 to Nov. 14). All of the debtor's  
22 otherwise exempt assets must be surcharged for that amount to make the  
23 estate whole. Latman v. Burdette, 366 F.3d 774 (9<sup>th</sup> Cir. 2004); In re  
24 Rolland, 317 B.R. 402 (Bankr. C.D. Cal. 2004).

25 **WHEREFORE**, the trustee prays for the entry of an order denying  
26 the foregoing exemptions claimed by the debtor and ordering the debtor  
27

1 to turn over the non-exempt assets, and surcharging the debtor's exempt  
2 assets to make the estate whole.

3 DATED December 18, 2009.

4 **TERRY A. DAKE, LTD.**

5  
6 By /s/ TD009656  
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12 COPY mailed December 18, 2009 to:

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18 /s/ TD009656  
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